

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

BEEF PRODUCTS, INC.,
BPI TECHNOLOGY, INC. and
FREEZING MACHINES, INC.,

Plaintiffs,

v.

AMERICAN BROADCASTING
COMPANIES, INC., ABC NEWS, INC.,
DIANE SAWYER, JIM AVILA, DAVID
KERLEY, GERALD ZIRNSTEIN, CARL
CUSTER, and KIT FOSHEE,

Defendants.

Civ. No. 12-4183

ORAL ARGUMENT REQUESTED

**ABC DEFENDANTS' MOTION TO DISMISS ALL CLAIMS OF PLAINTIFFS
BPI TECHNOLOGY, INC. AND FREEZING MACHINES, INC.
FOR FRAUDULENT JOINDER AND FAILURE TO STATE A CLAIM**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants American Broadcasting Companies, Inc., ABC News, Inc., Diane Sawyer, Jim Avila and David Kerley move to dismiss all claims brought against them by BPI Technology, Inc. and Freezing Machines, Inc., for fraudulent joinder and failure to state a claim. The grounds for this Motion are set forth in the accompanying memorandum.

Oral argument on this Motion is respectfully requested.

Respectfully submitted,

Kevin T. Baine (*pro hac vice pending*)
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Companies, Inc., ABC News, Inc., Diane
Sawyer, Jim Avila, and David Kerley*

Dated: October 31, 2012

CERTIFICATE OF SERVICE

On October 31, 2012, the foregoing ABC DEFENDANTS' MOTION TO DISMISS ALL CLAIMS OF PLAINTIFFS BPI TECHNOLOGY, INC. AND FREEZING MACHINES, INC., was filed electronically. Copies of the foregoing document will be served on all counsel of record by operation of the Court's CM/ECF filing system.

/s/ Ronald A. Parsons, Jr.
Ronald A. Parsons, Jr.